



2016 BOROUGH OF DUMONT ORDINANCE

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
CORREA				
DI PAOLO				
HAYES				
MORRELL				
RIQUELME				
ZAMECHANSKY				
MAYOR KELLY				
TOTALS				

Offered by: _____
Seconded by: _____

Ordinance No. 1509 (Revised)
Date: November 9, 2016
Page: 1 of 7
Subject: Real Property Tax Exemption and Payments in Lieu of taxes for Block 212, Lot 20 and Block 215, Lot 1
Purpose: Authorization
Dollar Amount: _____
Prepared By: Gregg Paster, Esq.

Certified as a true copy of an Ordinance Introduced and Passed by the Governing Body of the Borough of Dumont on the above date at a Public Meeting by:

Susan Connelly, RMC, Municipal Clerk
Borough of Dumont, Bergen County, New Jersey

**ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF DUMONT
AUTHORIZING REAL PROPERTY TAX EXEMPTION AND PAYMENTS IN LIEU OF
TAXES FOR PROPERTY KNOWN AS BLOCK 212 LOT 20 AND BLOCK 215 LOT 1
PURSUANT TO THE LONG TERM TAX EXEMPTION LAW,
N.J.S.A. 40A:20-1, ET SEQ.**

WHEREAS, Landmark Dumont, LLC (the “Owner”) owns or has the right and intends to acquire, property known as Block 212, Lot 20 and Block 215, Lot 1, on the tax map of the Borough of Dumont, County of Bergen, and State of New Jersey and plans to construct on the Property a housing complex including an unrestricted 15% set aside for low and moderate income families, which will meet in part the Borough’s obligation to provide low and moderate income housing in the Borough; and

WHEREAS, the referenced property was the subject of a certain litigation entitled Landmark Dumont, LLC v. Borough of Dumont, Planning Board of the Borough of Dumont, et als., Docket number BER-L-1297-14, seeking, among other things, a declaration of a builder's remedy, rezoning of the property, court imposed supervision of the rezoning process, and related relief; and

WHEREAS, the above captioned litigation was settled, and the settlement was approved by the Superior Court of New Jersey, Law Division-Bergen County, after a fairness hearing on May 12, 2016, by an opinion of June 16, 2016 and an Order of the Court; and

WHEREAS, the Owner has been designated as the Redeveloper of the referenced property, which has been declared an Area in Need of Redevelopment by the municipal governing body under laws of the State of New Jersey for the purpose of proceeding with the real property acquisition and construction of the market rate and affordable housing development thereon; and

WHEREAS, the proposed development will be constructed by a duly authorized corporate entity or entities eligible to received such benefits and subject to the rules and

regulations of the New Jersey Fair Housing Act and the Local Redevelopment and Housing Act; and

WHEREAS, the Long Term Tax Exemption Law of New Jersey, N.J.S.A. 40A:20-1, *et seq.* permits a municipality to enter into a financial agreement exempting real property from tax assessment and accepting payments in lieu of taxes where the property is a qualified low and moderate income affordable housing project including a recognized percentage of unrestricted low and moderate income rental housing for families under the aforesaid statutes; and

WHEREAS, it has been negotiated and agreed, as part of the Settlement Agreement, that in exchange for certain concessions and infrastructure improvements to be performed by the Owner, the Borough will prepare, execute and deliver an agreement under the LTTE for a Payment In Lieu Of Taxes program, as duly adopted by Ordinance of the Borough of Dumont.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Dumont as follows:

1. The Borough Council of the Borough of Dumont finds, consistent with the opinion and judgment of the Court, that the proposed development will meet an existing housing need pursuant to the provisions of the Fair Housing Act of 1985 and that the development will be an improvement made for the purpose of providing unrestricted low and moderate income rental housing to qualified families of the Borough and will serve to meet in part the Borough's obligation to provide low and moderate income housing under its fair share obligations with the New Jersey Council on Affordable Housing, as set forth by the New Jersey Supreme Court in its Mount Laurel IV decision, 221 NJ 1 (2015).

2. The Borough Council makes such determination and findings by virtue of and pursuant to and in conformity with the Long Term Tax Exemption Law of the State of New Jersey, N.J.S.A. 40:20-1, *et seq.*

3. The land and the proposed development and improvements, after acquisition by the Owner and construction of the market rate and low and moderate income housing development thereon, shall be exempt from real property taxation as provided in N.J.S.A. 40A:20-1, *et seq.*

4. The Clerk of the Borough shall deliver a certified copy of this Ordinance approving the tax exemption and financial agreement to the Tax Assessor.

5. Prior to adoption hereof and execution of the financial agreement hereunder, the Owner, through a qualified entity, shall make the required application under N.J.S.A. 40A:20-8, and provide all of the information under that section for review by the Mayor who shall make the appropriate recommendation to the governing body under that section.

6. Upon adoption of the financial agreement, a certified copy of this Ordinance and the financial agreement shall be transmitted to the Director of the Division of Local Government Services.

7. In lieu of real property taxes, the Owner shall make payment to the Borough of Dumont an annual service charge for municipal services supplied to the housing development, pursuant to N.J.S.A. 40A:20-9, in an amount equal to the greater of: two (2%) percent of gross construction cost; ten (10%) percent of gross rent collected or Three Thousand Five Hundred (\$3,500.00) Dollars per market rate unit for a period of fifteen (15) years, and an amount equal to the greater of two (2%) percent of gross construction cost; ten (10%) percent of gross rent

collected or Three Thousand Seven Hundred Fifty (\$3,750.00) Dollars per market rate unit for a period of ten (10) years thereafter, and an amount equal to the greater of two (2%) percent of gross rents collected or Three Hundred Fifty (\$350.00) Dollars per affordable unit, per year for fifteen (15) years, and an amount equal to the greater of two (2%) percent of gross rents collected or Three Hundred Seventy Five (\$375.00) Dollars per affordable unit for a period of ten (10) years thereafter, from operating revenue or from such other source as may be available, said payments to commence upon the initial issuance of certificates of occupancy of the development. The Borough shall remit five percent (5%) of this annual service charge to the County of Bergen. The existing assessed taxation shall remain in effect on a pro-rata basis throughout the construction process until the first day of the calendar quarter next beginning after the issuance of certificates of occupancy for each building completed under the Settlement Agreement and Court Order until the completion of the construction and all certificates of occupancy are issued.

8. The tax exemption from real property taxation hereby granted shall continue for the earlier to occur of (a) the passage of twenty seven (27) years from the execution of the Financial Agreement executed and delivered pursuant to this Ordinance; (b) the expiration of twenty five (25) years from completion of the development, defined as the date of issuance of the final certificate of occupancy for any dwelling unit of the development, (c) a determination by the Owner and the Borough that the development is no longer useful or (d) if any dwelling unit covered hereunder is sold individually or in a group less than the entire inventory of the units referenced herein.

9. The Borough of Dumont shall require of the Owner the following:

- a. A copy of its Certificate of Incorporation be filed with the Municipal Clerk;
- b. The Owner shall submit annually, within ninety (90) days after the close of its fiscal year, its auditor's reports to the Mayor and Borough Council of the Borough and to the Director of the Division of Local Government Services in the NJ Department of Community Affairs.
- c. Proof shall be provided to the Borough of adherence to the provisions of any state or federal regulations serving to regulate the operation of the development, including, but not limited to COAH eligibility and selection criteria and reporting requirements. Such proof shall be provided as often as may be reasonably requested but in no case less often than required under COAH or FHA regulations.
- d. The Owner shall, upon request of the Borough, permit inspection of the property, equipment, buildings and other facilities of the entity, and also permit examination and audit of its books, contracts, records, documents, and papers by authorized representatives of the Borough, the County of Bergen or the State of New Jersey.

10. The Owner, COAH, the Superior Court of New Jersey, or any other interested party, may rely upon this Ordinance for the approval of the an application by the Borough for substantive certification and/or a judgment of repose in its affordable housing obligations under the FHA and court decisions interpreting same.

11. The appropriate Borough officials are hereby authorized and directed to execute a Tax Abatement Agreement reflecting the aforesaid annual service charge in lieu of taxes and the contributions and concessions by the Owner.

12. One copy of this Ordinance shall be placed on file with the Borough Clerk and with the Tax Assessor of the Borough of Dumont.

13. Notice of the adoption of this Ordinance shall be published in a newspaper of general circulation in the Borough of Dumont and a newspaper of general circulation in Bergen County.

ATTEST:

APPROVED:

SUSAN CONNELLY, RMC
Municipal Clerk

JAMES J. KELLY, Mayor

Introduced: November 9, 2016

Adopted: